HIGH COURT OF UTTARANCHAL AT NAINITAL

(Court's order whether the case is or not approved for reporting)

(Chapter VIII Rule 32 (2)(b)

Description of the case.

W.P. S/S No. 1423/2004

Smt. Meenakshi Main

vs

State of Uttaranchal

Secretary Secondary

Education

Approved for reporting

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~~Not approved for reporting~~

Date of decision 28-2-2006

Initial of Judge

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

WRIT PETITION NO. 1423 (SS) OF 2004

Smt. Meenakshi Main, W/o Sri Sushi Main,
Presently posted as Assistant Teacher, L.T. Grade,
R/o 37, Dangwal Road, Neshvilla Road, Dehradun.
District Dehradun. .....Petitioner.

Versus

1. State of Uttaranchal, through the Secretary, Secondary Education, Uttaranchal Shasan, Dehradun.
2. District Inspector of Schools, Dehradun.
3. Committee of Management, Sanshahi Sarvahitkari Inter College, Rajpur, District Dehradun, through its Manager.
4. Sri Lakhan Singh, L.T. grade teacher, Sanshahi Sarvahitkari Inter College, Rajpur, Dehradun.

.....Respondents.

Sri C.K.Sharma, Advocate for the petitioner.
Learned Standing Counsel for the State.

Dated: 28.02.2006

Hon'ble Rajesh Tandon, J.

By the present writ petition, the petitioner has prayed for a writ of certiorari quashing the order dated 25.12.1997 passed by the District Inspector of Schools, Dehradun and the order dated 07.021998 (Annexure No.1, and 2 to the writ petition).

2. Brief facts of the case giving rise to the present writ petition are that the petitioner was initially appointed in the institution as Assistant Teacher (English) on 13.07.1990 in the pay-scale of trained graduate pay scale under Section 18(1) (kha) of U.P. Intermediate Education Act.

3. The Services of the petitioner was regularized w.e.f. 06.01.1993 as L.T. Grade Teacher. From the date of appointment, the petitioner was continuously working in the institution.

4. However, the petitioner was given L.T. Grade promotion (English) by the department on 28.01.1997 on adhoc basis.

5. Thereafter, the name of the petitioner was forwarded to the U.P. Intermediate Education Services Commission, Allahabad and the U.P. Intermediate Education Services Commission, Allahabad vide its order dated 19.02.1998 approved the appointment of the petitioner as L.T. Grade Teacher (English).

6. The sole contention of the petitioner is that at the time of promotion of the petitioner in L.T. Grade Teacher (English) following lecturers were holding the post in the following manner :-

"i. Ram Chandra Jahkmola – promotion (Hindi)

ii. Puran Singh Verma- direct recruitment (Economics)

iii. Prakash Chandra Suyan-direct recruitment (Sanskrit).

iv. Ghanshyam Singh – direct recruitment (---)

v. Ravindra Kaur – by way of upgrading of post (Civics)

vi. Prem Singh Arora – promotion (Maths)

vii. Smt. Lalita Lohni- promotion (Chemistry).

According to the case of the petitioner candidates at Serial No. 1, 2, 6 and 7 four persons were appointed as lecturers by way of 50% quota prior to 1st July, 1998. One Sri Ravindra Kaur who was upgraded was out side the promotional quota as will appear from the letter of the Manager, which has been filed as Annexure 8 to the writ petition. From the letter dated 14th

March, 1998, it appears that the petitioner was promoted on 50% quota on the upgradation of Ravindra Kaur which has been treated to be direct recruit post. Therefore, the petitioner has challenged the order passed by the DIOS by which the cancellation order of the promotion of the petitioner has been passed.

A counter affidavit has been filed by the State, where this factual position has been admitted in paragraph 5 and paragraph 8. The same are quoted below:-

"B. *That in the institution, 10 post finally created by the Director of Education, UP vie its letter no. Sa. (1) third/110-16/96-97 dated 27-4-96, in which, including petitioner, five lecturers were promoted under promotion quota i.e. (1) Sri Ram Chandra Jakhmola (Hindi), (2) Sri Pooran Singh Verma (Economics) (3) Sri Prem Singh Arora (Maths) (4) Sri Lalita Lohani (Chemistry), (5) Smt. Minakashi Miya (English) and one post of Smt. Ravindra Kaur, Assistant Teacher (L.T.) had been upgraded, which has been deemed under direct recruitment.*

8. that in reply to the contents of para 10 and 11 of the writ petition, it is submitted that the petitioner has stated that in the institution Smt. Ravindra Kaur, Assistant Teacher, L.T. Grade has been appointed under upgradation as Lecturer (Civics) as direct appointment, thus, the said post of Smt. Ravindra Kaur is not a post of promotion, while the post of petitioner should be under 50% promotion quota, which approved by the commission vide its letter no. /Ma.Si.Aa/ Anu-7/3865-68/97-98 dated 19-2-1998. It is pertinent to state that in the said institution at Intermediate level, 10 posts of teachers had been finally sanctioned by the Director of Education, U.P. vide its letter no./Sa. (1) Third/ 10-16/96-97 dated 27-4-1996 in which 05 posts should be filled by direct appointment and rest of 05 post by way of promotion, but the

college administration had succeeded to get approval of promotion of the following 06 posts:-

(1) Sri Ram Chandra Jakhmola Hindi

(2) Sri Pooran Singh Verma Economics.

(3) Sri Prem Singh Arora Maths

(4) Smt. Lalita Lohani Chemistry

(5) Smt. Ravindra Kaur Civics.

(6) Smt. Minakshi Main English.

Therefore, the respondent department had passed the order of reversion of Smt. Minakshi Main, the petitioner, as last promotee, vide order-letter no/Pra.Aa.-1/26739/97-98 dated Dec. 12/25/1997, against which the petitioner filed the instant writ petition."

Therefore, according to the grievance of the petitioner that there existed no six posts, but there were only five posts as one post was upgradaed post, which was treated to be direct recruit post so far as Smt. Ravindra Kaur is concerned and therefore, only five posts remained in 50% promotional quota and the petitioner cannot be deprived of his promotion, which was legally granted to him.

In view of the aforesaid averments, the matter is referred to the District Education Officer, who shall pass appropriate order within a period of two months form the date of presentation of the certified copy of the order.

Writ petition is disposed of. No order as to costs.

(Rajesh Tandon, J.)

28.02.2006

Rathour